

ASSEMBLY BILL

No. 1419

**Introduced by Committee on Elections and Redistricting (Fong
(Chair), Bocanegra, Bonta, Hall, Logue, and Perea)**

March 20, 2013

An act to amend Sections 338, 2187, 5001, 5002, 5004, 5005, 5200, and 8001 of, and to add Chapter 2.5 (commencing with Section 5150) to Division 5 of, the Elections Code, and to amend Section 85205 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL’S DIGEST

AB 1419, as introduced, Committee on Elections and Redistricting. Presidential general elections: party qualifications.

Existing law establishes qualifications that a new political party must satisfy in order to participate in a primary election. Existing law provides that a new party qualifies to participate in a primary election if, on or before the 135th day before the primary election, it appears to the Secretary of State, after examining the statement of voters transmitted by county elections officials, that at least 1% of the entire vote of the state at the preceding gubernatorial election has declared an intention to affiliate with the party or if a petition to participate in the primary election is filed with the Secretary of State, signed by voters numbering at least 10% of the entire vote of the state at the preceding gubernatorial election declaring that they represent the proposed party and desire to participate in the primary election.

Under existing law, a political party must participate in the primary election in order for a candidate for partisan office to have his or her name appear on the general election ballot with that party’s designation.

This bill would establish requirements for a new party that did not qualify to participate in a presidential primary election but nevertheless seeks to participate in the presidential general election following that primary election, including having candidates for President and Vice President of the United States nominated by the party appear on the presidential general election ballot. The bill would provide that a new party is qualified to participate in a presidential general election if it is able to satisfy the above-mentioned voter registration or petition signature requirements on or before the 102nd day preceding the general election.

Existing law requires each county elections official to send the Secretary of State, at prescribed times, a summary of the statement of the number of voters in the county, including the number registered as affiliated with each qualified or nonqualified party.

This bill would require each county elections official to send the Secretary of State an additional summary statement of the voters in the county not less than 102 days prior to the presidential general election, with respect to voters registered before the 123rd day before the presidential general election. By imposing new duties or a higher level of service on county elections officials, this bill would impose a state-mandated local program.

The bill would also making conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 338 of the Elections Code is amended to
- 2 read:
- 3 338. "Party" means a political party or organization that has
- 4 qualified for participation in any primary *or presidential general*
- 5 election.
- 6 SEC. 2. Section 2187 of the Elections Code is amended to read:

2187. (a) Each county elections official shall send to the Secretary of State, in a format described by the Secretary of State, a summary statement of the number of voters in the county. The statement shall show the total number of voters in the county, the number registered as affiliated with each qualified political party, the number registered in nonqualified parties, and the number who declined to state any party affiliation. The statement shall also show the number of voters, by political affiliations, in each city, supervisorial district, Assembly district, Senate district, and congressional district located in whole or in part within the county.

(b) The Secretary of State, on the basis of the statements sent by the county elections officials and within 30 days after receiving those statements, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each county, city, supervisorial district, Assembly district, Senate district, and congressional district in the state. A copy of this list shall be made available, upon request, to any elector in this state.

(c) Each county that uses data processing equipment to store the information set forth in the affidavit of registration shall send to the Secretary of State one copy of the ~~magnetic-tape~~ *electronic data* file with the information requested by the Secretary of State. Each county that does not use data processing storage shall send to the Secretary of State one copy of the index setting forth that information.

(d) The summary statements and the ~~magnetic-tape~~ *electronic data* file copy or the index shall be sent at the following times:

(1) On the 135th day before each presidential primary and before each direct primary, with respect to voters registered on the 154th day before the primary election.

(2) Not less than 50 days prior to the primary election, with respect to voters registered on the 60th day before the primary election.

(3) Not less than 7 days prior to the primary election, with respect to voters registered before the 14th day prior to the primary election.

(4) *Not less than 102 days prior to each presidential general election, with respect to voters registered before the 123rd day before the presidential general election.*

(4)

1 (5) Not less than 50 days prior to the general election, with
2 respect to voters registered on the 60th day before the general
3 election.

4 ~~(5)~~

5 (6) Not less than 7 days prior to the general election, with respect
6 to voters registered before the 14th day prior to the general election.

7 ~~(6)~~

8 (7) On or before March 1 of each odd-numbered year, with
9 respect to voters registered as of February 10.

10 (e) The Secretary of State may adopt regulations prescribing
11 the content and format of the ~~magnetic tape~~ *electronic data* file or
12 index referred to in subdivision (c) and containing the registered
13 voter information from the affidavits of registration.

14 (f) The Secretary of State may adopt regulations prescribing
15 additional regular reporting times, except that the total number of
16 reporting times in any one calendar year shall not exceed 12.

17 (g) The Secretary of State shall make the information from the
18 ~~magnetic tape~~ *electronic data* files or the printed indexes available,
19 under conditions prescribed by the Secretary of State, to any
20 candidate for federal, state, or local office, to any committee for
21 or against any proposed ballot measure, to any committee for or
22 against any initiative or referendum measure for which legal
23 publication is made, and to any person for election, scholarly or
24 political research, or governmental purposes as determined by the
25 Secretary of State.

26 SEC. 3. Section 5001 of the Elections Code is amended to read:
27 5001. Whenever a group of electors desires to qualify a new
28 political party meeting the requirements of Section 5100 *or 5151*,
29 that group shall form a political body by:

30 (a) Holding a caucus or convention at which temporary officers
31 shall be elected and a party name designated. The designated name
32 shall not be so similar to the name of an existing party so as to
33 mislead the voters, and shall not conflict with that of any existing
34 party or political body that has previously filed notice pursuant to
35 subdivision (b).

36 (b) Filing formal notice with the Secretary of State that the
37 political body has organized, elected temporary officers, and
38 declared an intent to qualify a political party pursuant to *either*
39 *Section 5100 or Section 5151, but not both*. The notice shall include

1 the names and addresses of the temporary officers of the political
2 body.

3 SEC. 4. Section 5002 of the Elections Code is amended to read:

4 5002. Upon receipt of the notice specified in Section 5001, the
5 Secretary of State shall notify each county elections official of the
6 name of the political body ~~and~~, its intent to qualify as a political
7 party, *and whether it intends to qualify for the next primary election*
8 *or for the next presidential general election.*

9 In preparing the statement of voters and their political affiliations,
10 the county elections officials shall tabulate by political affiliation
11 the affidavits of registration of members of political parties
12 qualified pursuant to Section 5100 *or 5151*, and political bodies
13 formally declaring an intent to qualify as political parties pursuant
14 to Section 5001. All other affidavits of registration, except those
15 of persons declining to state a political affiliation, shall be tabulated
16 as miscellaneous registrations.

17 SEC. 5. Section 5004 of the Elections Code is amended to read:

18 5004. (a) If by the 135th day before any primary election, a
19 political body filing notice *of its intent to qualify for a primary*
20 *election* pursuant to Section 5001 has not qualified as a political
21 party pursuant to Section 5100, the political body shall be
22 considered to have abandoned its attempt to qualify as a political
23 party and shall be ineligible to participate in the following primary
24 election.

25 (b) *If by the 102nd day before a presidential general election,*
26 *a political body filing notice of its intent to qualify for a*
27 *presidential general election pursuant to Section 5001 has not*
28 *qualified as a political party pursuant to Section 5151, the political*
29 *body shall be considered to have abandoned its attempt to qualify*
30 *as a political party and shall be ineligible to participate in the*
31 *following presidential general election.*

32 SEC. 6. Section 5005 of the Elections Code is amended to read:

33 5005. (a) Until otherwise provided for by statute, a political
34 party newly qualified pursuant to Section 5100 shall carry on its
35 activities in accordance with procedures applicable to any other
36 political party that has detailed statutory provisions applicable to
37 its operation as shall be designated by the newly qualified party.
38 The temporary officers of the newly qualified political party elected
39 pursuant to Section 5001 shall file notice of its selection with the

1 Secretary of State not later than 30 days after the political party
2 qualifies.

3 *(b) Until otherwise provided for by statute, a political party*
4 *newly qualified pursuant to Section 5151 shall carry on its*
5 *activities in accordance with procedures applicable to any other*
6 *political party that has detailed statutory provisions applicable to*
7 *its operation as shall be designated by the newly qualified party,*
8 *except that the newly qualified party shall not be required to use*
9 *a primary election to nominate candidates for the offices of*
10 *President and Vice President of the United States prior to the*
11 *presidential general election at which the party qualifies to*
12 *participate, whose names shall appear on the presidential general*
13 *election ballot. The temporary officers of the newly qualified*
14 *political party elected pursuant to Section 5001 shall file notice*
15 *of its selection with the Secretary of State not later than 30 days*
16 *after the political party qualifies.*

17 SEC. 7. Chapter 2.5 (commencing with Section 5150) is added
18 to Division 5 of the Elections Code, to read:

19
20 CHAPTER 2.5. PARTIES QUALIFIED TO PARTICIPATE IN THE
21 PRESIDENTIAL GENERAL ELECTION
22

23 5150. This chapter applies to a political party that did not
24 qualify to participate in a presidential primary election pursuant
25 to Section 5100 but nevertheless seeks qualification to participate
26 in the following presidential general election through the
27 nomination of candidates for President and Vice President of the
28 United States by nominating convention, or some means other
29 than a primary election, to appear on the ballot at the presidential
30 general election. For purposes of this chapter, participating in a
31 presidential general election does not include using the general
32 election ballot for the purpose of electing state party or county
33 central committee officers.

34 5151. A party is qualified to participate in a presidential general
35 election under any of the following conditions:

36 (a) If the party qualified to participate and participated in the
37 presidential primary election preceding the presidential general
38 election pursuant to Section 5100.

1 (b) If at the last preceding gubernatorial election there was polled
2 for any one of its candidates for any office voted on throughout
3 the state at least 2 percent of the entire vote of the state.

4 (c) If on or before the 102nd day before a presidential general
5 election, it appears to the Secretary of State, as a result of
6 examining and totaling the statement of voters and their political
7 affiliations transmitted to him or her by the county elections
8 officials, that voters equal in number to at least 1 percent of the
9 entire vote of the state at the last preceding gubernatorial election
10 have declared their intention to affiliate with that party.

11 (d) If on or before the 102nd day before a presidential general
12 election, there is filed with the Secretary of State a petition signed
13 by voters, equal in number to at least 10 percent of the entire vote
14 of the state at the last preceding gubernatorial election, declaring
15 that they represent a proposed party, the name of which shall be
16 stated in the petition, which proposed party those voters desire to
17 have participate in that presidential general election. This petition
18 shall be circulated, signed, and verified and the signatures of the
19 voters on it shall be certified to and transmitted to the Secretary
20 of State by the county elections officials substantially as provided
21 for initiative petitions. Each page of the petition shall bear a caption
22 in 18-point boldface type, which caption shall be the name of the
23 proposed party followed by the words "Petition to participate in
24 the presidential general election."

25 5152. (a) Upon the occurrence of the gubernatorial election,
26 each party shall have its qualifications reviewed by the Secretary
27 of State. A party that does not meet the standards for qualification
28 set forth in Section 5151 shall be prohibited from participating in
29 the presidential general election. A party shall maintain its
30 qualification to participate in any subsequent presidential general
31 election by complying with any of the conditions specified in
32 Section 5151.

33 (b) A party seeking qualification under provisions of this section
34 and subdivision (c) or (d) of Section 5151 shall file formal notice
35 with the Secretary of State that the party intends to regain
36 qualification.

37 (c) Unless formal notice as required in subdivision (b) is timely
38 received by the Secretary of State, he or she may have the name
39 of the party omitted from any list, notice, ballot, or other
40 publication containing the names of the parties qualified or seeking

1 qualification that the Secretary of State may cause to be printed
2 or published.

3 (d) For purposes of subdivision (b) of Section 8001, this section
4 shall only be applicable to a party that has successfully obtained
5 that status for the first time after having been a political body, and
6 shall not apply to a political party that has been disqualified.

7 5153. Whenever the registration of any party that qualified in
8 the previous general election falls below one-fifteenth of 1 percent
9 of the total state registration, that party shall not be qualified to
10 participate in a presidential general election but shall be deemed
11 to have been abandoned by the voters. The Secretary of State shall
12 immediately remove the name of the party from any list, notice,
13 ballot, or other publication containing the names of the parties
14 qualified to participate in a presidential general election.

15 5154. No party shall be recognized or qualified to participate
16 in a presidential general election that either directly or indirectly
17 carries on, advocates, teaches, justifies, aids, or abets the overthrow
18 by any unlawful means of, or that directly or indirectly carries on,
19 advocates, teaches, justifies, aids, or abets a program of sabotage,
20 force and violence, sedition or treason against, the government of
21 the United States or of this state.

22 SEC. 8. Section 5200 of the Elections Code is amended to read:

23 5200. (a) Not less than 123 days before a primary *or*
24 *presidential general* election, the Secretary of State shall, with the
25 advice and consent of the Attorney General, determine which
26 parties are disqualified to participate in any primary election under
27 Section 5102 *or a presidential general election under Section*
28 *5154*. If it is proposed to disqualify a party that was qualified to
29 participate in the next preceding direct primary, notice of intention
30 to disqualify shall be served by registered mail on the chairperson
31 of the state central committee of the party, as shown by the records
32 of the Secretary of State. In any event, notice of intention to
33 disqualify shall be given in each county of the state by publication
34 pursuant to Section 6061 of the Government Code. If there is no
35 newspaper of general circulation printed and published in any
36 county, publication shall be made in a newspaper of general
37 circulation printed and published in an adjoining county.

38 If

39 (b) *If* the party desires a hearing on the notice of intention to
40 disqualify, it shall, within 10 days after service by mail or within

1 10 days after the last date upon which the notice was published in
2 any county, whichever is later, file an affidavit in the Supreme
3 Court ~~under~~ pursuant to Section 13314 setting forth facts showing
4 that the political party is not disqualified to participate in any
5 primary election under Section 5102 *or a presidential general*
6 *election under Section 5154*. If the party does not file the affidavit
7 within the time specified, the notice of intention to disqualify shall
8 constitute final disqualification. Before the affidavit is filed, a copy
9 shall be personally served on the Secretary of State. When filed,
10 the matter shall be set for return in not more than 10 days and shall
11 have priority over any other pending cases.

12 ~~It~~

13 (c) *In* connection with proceedings in the Supreme Court under
14 this section, the Legislature hereby declares its intent to create a
15 speedy and expeditious method for judicial determination of the
16 vital questions involved, and urges the Supreme Court to accept
17 jurisdiction in any such proceeding. The Legislature further urges
18 that the court instruct any referee before whom the taking of
19 evidence is ordered to report back to the court in sufficient time
20 so that the court's final order may be made effective on or before
21 the 80th day before the primary *or presidential general* election.

22 SEC. 9. Section 8001 of the Elections Code is amended to read:

23 8001. (a) No declaration of candidacy for a partisan office or
24 for membership on a county central committee shall be filed by a
25 candidate unless (1) at the time of presentation of the declaration
26 and continuously for not less than three months immediately prior
27 to that time, or for as long as he or she has been eligible to register
28 to vote in the state, the candidate is shown by his or her affidavit
29 of registration to be affiliated with the political party the
30 nomination of which he or she seeks, and (2) the candidate has not
31 been registered as affiliated with a qualified political party other
32 than that political party the nomination of which he or she seeks
33 within 12 months, or, in the case of an election governed by
34 Chapter 1 (commencing with Section 10700) of Part 6 of Division
35 10, within three months immediately prior to the filing of the
36 declaration.

37 (b) The elections official shall attach a certificate to the
38 declaration of candidacy showing the date on which the candidate
39 registered as intending to affiliate with the political party the
40 nomination of which he or she seeks, and indicating that the

1 candidate has not been affiliated with any other qualified political
2 party for the period specified in subdivision (a) immediately
3 preceding the filing of the declaration. This section ~~shall~~ *does* not
4 apply to ~~declarations~~ *a declaration* of candidacy filed by a
5 candidate of a political party participating in its first direct primary
6 election subsequent to its qualification as a political party pursuant
7 to Section 5100 *or by a candidate of a political party participating*
8 *in its first presidential general election subsequent to its*
9 *qualification as a political party pursuant to Section 5151.*

10 (c) Notwithstanding subdivision (a), a county central committee,
11 subject to the bylaws of the state central committee, may establish
12 the length of time that a candidate for membership on that
13 committee must be shown by his or her affidavit of registration to
14 be affiliated with the political party of that committee, and may
15 establish the length of time that a candidate for membership on
16 that committee must not have been registered as affiliated with a
17 qualified political party other than the political party of that
18 committee.

19 SEC. 10. Section 85205 of the Government Code is amended
20 to read:

21 85205. "Political party committee" means the state central
22 committee or county central committee of an organization that
23 meets the requirements for recognition as a political party pursuant
24 to Section 5100 *or 5151* of the Elections Code.

25 SEC. 11. If the Commission on State Mandates determines
26 that this act contains costs mandated by the state, reimbursement
27 to local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.